

SUMMARY ANALYSIS OF AMENDED BILL

Author: Granlund

Analyst: Colin Stevens

Bill Number: AB 1232

Related Bills: See prior analysis Telephone: 845-3036

Amended Date: 5/7/97

Attorney: Doug Bramhall

Sponsor:

SUBJECT: Jobs Tax Credit/Increase to 25% of First \$10,000 of Wages Paid To Each Employee

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended April 7, 1997.
- ☒ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- ☐ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 7, 1997, STILL APPLIES.
- ☐ OTHER - See comments below.

SUMMARY OF BILL

Under the Personal Income Tax Law (PITL) and the Bank and Corporation Tax Law (B&CTL), this bill would enact a credit for employers equal to 25% of the first \$10,000 of wages paid to each new employee who is a registrant under the greater Avenues for Independence (GAIN) program or is a recipient of Aid to Families with Dependent Children (AFDC). The credit would not be allowed to exceed \$2,500 per employee per year, or \$2,500 in the aggregate for each employee.

Additionally, this bill would make changes to the Unemployment Insurance Code that will be addressed only as they impact the Franchise Tax Board (FTB).

SUMMARY OF AMENDMENT

The May 7, 1997, amendments made various changes, including adopting some of the technical amendments proposed by the department's analysis of the bill as amended April 7, 1997. The amendments would:

- provide a repeal date of December 1, 2002;
- define an "eligible individual" as an employee of the taxpayer who is certified by the Employee Development Department to meet the requirements of Unemployment Insurance Code (UI) Section 328, which expands the pool of eligible individuals to include recipients of Aid to Families with Dependent

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Department Director Position:

☐ S ☐ O
☐ SA ☒ OUA
☐ N ☐ NP
☐ NA ☐ NAR
☐ PENDING

Agency Secretary Position:

☐ S ☐ O
☐ SA ☐ OUA
☐ N ☐ NP
☐ NA ☐ NAR
DEFER TO _____

GOVERNOR'S OFFICE USE

Position Approved _____
Position Disapproved _____
Position Noted _____

Department/Legislative Director Date

Agency Secretary Date

By: Date:

Johnnie Lou Rosas 5/19/97

Children or a successor program;

- clarify that the maximum credit amount per employee would be \$2,500 for all years;
- remove the provision disallowing the credit if an employee was employed by the taxpayer while not certified to meet UI Section 328 requirements;
- clarify that eligible employees are only those for whom an employer has received or requested in writing certification prior to employment;
- delete the proposed eligibility requirement that an individual be receiving welfare benefits for the 90 days immediately preceding employment and was unemployed; and
- allow agencies other than EDD to certify the eligibility of individuals.

SPECIFIC FINDINGS

The discussion of federal and state law in the specific findings in the department's previous analyses of the bill as introduced February 28, 1997, and as amended April 7, 1997, still apply.

Under the PITL and B&CTL, **this bill** would reinstate a credit similar to the prior Jobs Tax Credit by striking the requirement that the wages must be paid to an individual hired by December 31, 1993. This credit, as discussed in the prior analysis, would be operative with the changes noted above.

Policy Considerations

The following policy considerations from the analyses of the bill as introduced February 28, 1997, and April 7, 1997, still apply and are reiterated below.

While this credit would provide an incentive to hire welfare recipients, it makes no provision that these new employees be hired to fill newly-created positions. Thus, current employees could be displaced so the taxpayer can receive a job credit. In the Assembly Revenue and Taxation committee hearing on May 12, 1997, the author agreed to take amendments to allow the credit only for newly created positions. Amendments 1, 3, 7, 14, 16 and 20 would resolve this concern and remove the Board's opposition to the bill.

The existing federal credit (equal to 35% of qualified wages, to a maximum \$6,000 in wages (\$2,100 credit)) provides an incentive similar to the credit that would be allowed by this bill. A recently proposed expansion of the federal credit would provide a 50% credit for the first \$10,000 in wages. If the federal wage credit is expanded and this bill is enacted, the combination would provide a 75% federal/state credit. Since this credit would not be decreased by the amount of the federal wage credit, it may create an incentive for an employer to hire employees to claim the credits and terminate them once the maximum of federal and state credits has been reached.

The prior state jobs tax credit allowed a maximum aggregate credit equal to \$600, or twice the maximum allowable annual credit of \$300, over 24 months. This bill would allow a maximum credit equal to \$2,500 in the aggregate, and \$2,500 per year. If the proposed credit were to mirror the prior credit, the maximum annual allowable amount would be \$1,250, with a maximum aggregate amount of \$2,500, thus ensuring two-year employment to maximize the credit benefits.

This bill would allow a credit for wages paid to certain individuals. However, this credit would not require that employers retain the employee for a certain period of time. Some wage credits, such as the enterprise zone credit, provide a "recapture" to ensure that employees are retained for a specified period of time.

When this credit was first enacted, enterprise zones and other economic development areas were not part of state law. Thus taxpayers did not have the opportunity to take multiple credits for the same expenses. However, now that those credits are available, the author may wish to consider whether taxpayers should be allowed to claim this credit in addition to the other wage credits and deductions to which the taxpayer is allowed.

Conflicting tax policies come into play whenever a credit is provided for an expense item for which preferential treatment is already allowed in the form of an expense deduction or depreciation deduction. This new credit would have the effect of providing a double benefit for the wages expense. On the other hand, disallowing otherwise allowable deductions to eliminate the double benefit creates a state and federal difference, which is contrary to the state's general conformity policy. In the case of a one-time expense deduction, the reduction of that expense would not create an ongoing difference.

Implementation Consideration

This bill would require that an agency certify eligibility for this credit, but would not require the taxpayer to retain the certificate or to present it to the Franchise Tax Board (FTB) upon request. Amendments 9 and 22 are provided at the author's request to require a taxpayer to retain a certificate and present it to the FTB upon request.

Technical Considerations

The May 7, 1997, amendments would resolve some of the technical concerns identified in the department's analysis of the bill as amended April 7, 1997, but also created technical concerns. The technical concerns are:

Sections 17053.7 (a) and 23621 (a) would require the eligible individual to be certified by the EDD; however, that same subdivision would allow an employer to receive certification from the EDD or State Department of Social Services (DSS). Also, UI Code Section 328 would allow the EDD, DSS or county welfare agency to provide written verification of the employee's eligibility. Amendments 2, 6, 15 and 19 would make consistent the agencies that may certify eligibility.

This bill provides that any unused credit may be carried over after the repeal date. Amendments 13 and 26 would delete the carryover language provided in subdivision (k) since existing law already provides that the carryover of a credit may continue past its repeal date.

Subdivision (g) allows a taxpayer an election to either claim or avoid claiming the credit. This language is unnecessary as a taxpayer may choose not to claim a credit for which he or she is eligible even without this election language. Amendments 10 and 23 would strike these unnecessary provisions.

The May 7 amendments adopted some of the department's proposed amendments making consistent the use of the term "taxpayer" rather than "employer." Amendments 4, 5, 8, 12, 17, 18, 21 and 25 would make consistent the use of "taxpayer" to refer to who may be allowed the credit.

The provision allowing a successor employer to be treated in a manner similar to a predecessor employer has an inconsistency. Amendments 11 and 24 would make consistent the use of the terms "predecessor" and "successor."

FISCAL IMPACT

Tax Revenue Estimate

This bill is estimated to impact PIT and B&CT revenue as shown in the following table. The estimates assume that new hires prior to 1/1/97 are not eligible.

Fiscal Year Cash Flow Effective 1/1/97 Enactment Assumed After June 30, 1997 \$ Millions		
1997-8	1998-9	1999-0
(\$42)	(\$47)	(\$52)

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Tax Revenue Discussion

The impact of this bill would depend on the number of employers who employ qualified individuals, the average amount of qualified wages paid or incurred for each qualifying employee and the average credit applied against tax liabilities.

This amendment differs from the amended version dated April 7, 1997, by adding recipients of Aid to Families with Dependent Children or aid under a successor to that program to qualify for the credit. In addition, certifications may also be granted by the county welfare agency or the Department of Social Services.

This estimate was developed in the following steps and takes into consideration the newly enacted Federal Welfare Reform Act: First, the total number of individuals who may qualify employers for the credit was based on information received from the California Department of Social Services (CDSS). According to CDSS, there were approximately 846,000 adult individuals on AFDC as of December 1996. Second, this number was reduced by 20% to account for those currently in the workforce (approximately 169,000). Of these individuals currently employed, it was assumed that 10% would change jobs within the year. This yields approximately 694,000 individuals who could qualify. Third, the number of AFDC individuals was reduced 20% to allow for non-employable individuals (corresponds to the 20% allowance under current federal law for state grant calculation purposes), leaving approximately 525,000 individuals who could qualify employers for the tax credit. Fourth, this number was further reduced by 15% to account for individuals who would be hired by governmental and tax-exempt

institutions, leaving approximately 446,000 individuals. Fifth, assumptions were made that within a two year period the number of qualified individuals will enter the workforce if only for limited time periods. Sixth, it was assumed that 50% of the these individuals would go through the certification process qualifying the employer for the credit. Seventh, for this analysis an average credit of \$500 per individual was used (i.e. \$2,000 in wages on average per employee).

For this analysis, no growth was applied to the number of qualifying individuals because of the newly-enacted federal welfare reform act, which puts limitations on the length of time an individual can receive cash benefits. It was assumed that 70% of the allowable credits would be applied in any given year and the unapplied carryover credits would be exhausted over a two year period.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1232
As Amended May 7, 1997

AMENDMENT 1

On page 2, line 9, after "taxpayer" insert:

, who fills a new position,

AMENDMENT 2

On page 2, line 10, after "Department" insert:

, the county welfare agency, or the State Department of Social Services

AMENDMENT 3

On page 2, line 12, after "Code." Insert"

The number of eligible individuals may not exceed the number of new positions created during the taxable year.

AMENDMENT 4

On page 2, line 15, strike "employer" and insert:

taxpayer

AMENDMENT 5

On page 3, line 12, strike "employer" and insert:

taxpayer

AMENDMENT 6

On page 3, line 14, after "Department" insert:

, the county welfare agency,

AMENDMENT 7

On page 3, between lines 22 and 23, insert:

(c) A new position is one created by a taxpayer which does not result in a reduction in the number of employees employed by the taxpayer compared to the immediately preceding taxable year or in the number of average hours worked by all employees of the taxpayer in the immediately preceding taxable year.

@@@ Legislative Counsel: Please redesignate subdivisions as necessary.

AMENDMENT 8

On page 4, amend lines 9-11 as follows:

section shall not apply to wages paid by the taxpayer ~~employer~~ after the date on which notice of revocation is received by the taxpayer ~~employer~~.

AMENDMENT 9

On page 4, line 12, insert:

(e) (1) The taxpayer shall:

(A) Retain a copy of the certification or revocation provided under Unemployment Insurance Code Section 328 and provide it to the Franchise Tax Board upon request.

(B) Retain for his or her records the documentation necessary to demonstrate that a new position was created as described in subdivision (c), including the number of employees and hours worked in each taxable year, and provide it to the Franchise Tax Board upon request.

(2) If the taxpayer fails to comply with the requirements of this subdivision, no credit shall be allowed to that taxpayer under this section for any taxable year unless the taxpayer subsequently complies.

AMENDMENT 10

On page 4, strike lines 23-32, inclusive

AMENDMENT 11

On page 4, amend lines 38-40 as follows:

employer shall be made in the same manner as if ~~those~~ the wages paid by the predecessor were paid by the predecessor successor employer ~~referred to in that section.~~

AMENDMENT 12

On page 5, line 7, strike "employer" and insert:

taxpayer

AMENDMENT 13

On page 5, strike lines 22-24.

AMENDMENT 14

On page 5, line 33, after "taxpayer" insert:

, who fills a new position,

AMENDMENT 15

On page 5, line 34, after "Department" insert:

, the county welfare agency, or the State Department of Social Services

AMENDMENT 16

On page 5, line 35, after "Code." Insert"

The number of eligible individuals may not exceed the number of new positions created during the taxable year.

AMENDMENT 17

On page 5, line 38, strike "employer" and insert:

taxpayer

AMENDMENT 18

On page 6, line 18, strike "employer" and insert:

taxpayer

AMENDMENT 19

On page 6, line 21, after "Department" insert:

, the county welfare agency,

AMENDMENT 20

On page 6, between lines 29 and 30, insert:

(c) A new position is one created by a taxpayer which does not result in a reduction in the number of employees employed by the taxpayer compared to the immediately preceding taxable year or in the number of average hours worked by all employees of the taxpayer in the immediately preceding taxable year.

@@@ Legislative Counsel: Please redesignate subdivisions as necessary.

AMENDMENT 21

On page 7, amend lines 15-17 as follows:

section shall not apply to wages paid by the taxpayer ~~employer~~ after the date on which notice of revocation is received by the taxpayer ~~employer~~.

AMENDMENT 22

On page 7, line 18, insert:

(f)(1) The taxpayer shall:

(A) Retain a copy of the certification or revocation provided under Unemployment Insurance Code Section 328 and provide it to the Franchise Tax Board upon request.

(B) Retain for his or her records the documentation necessary to demonstrate that a new position was created as described in subdivision (c), including the number of employees and hours worked in each taxable year, and provide it to the Franchise Tax Board upon request.

(2) If the taxpayer fails to comply with the requirements of this subdivision, no credit shall be allowed to that taxpayer under this section for any taxable year unless the taxpayer subsequently complies.

AMENDMENT 23

On page 7, strike lines 29-38.

AMENDMENT 24

On page 8, amend lines 5-7 as follows:

employer shall be made in the same manner as if ~~those~~ the wages paid by the predecessor were paid by the ~~predecessor~~ successor employer ~~referred to in that section.~~

AMENDMENT 25

On page 8, line 13, strike "employer" and insert:

taxpayer

AMENDMENT 26

On page 8, strike lines 29-31.